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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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TAE H. CHON,

Plaintiff,

v.

USA, ET AL,

Defendant.

REPORT AND RECOMMENDATION

Case No. 2:16-CV-187-DB-BCW

District Judge Dee Benson

Magistrate Judge Brooke Wells

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Plaintiff Tae H. Chon brings this action against the United States of America, various government officials including President Barrack Obama and former President George W. Bush, and at least two dozen other individuals.<sup>1</sup> Plaintiff, proceeding *pro se*, was allowed to proceed *in forma pauperis*.<sup>2</sup> The following motions are before the court; Plaintiff's Motion to Appoint Counsel<sup>3</sup>, and Plaintiff's Motion for Service of Process.<sup>4</sup> The case was referred to Magistrate Judge Wells.<sup>5</sup>

Under the *in forma pauperis* Statute (the "IFP Statute"), the Court shall, at any time, *sua sponte*, dismiss a case if the court determines a complaint is frivolous or fails to state a claim upon which relief can be granted.<sup>6</sup> The IFP Statute "accords judges not only the authority to dismiss a claim based on an indisputably meritless legal theory, but also the unusual power to pierce the veil of the complaint's factual allegations and dismiss those claims whose factual

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<sup>1</sup> Docket no. 4.

<sup>2</sup> Docket no. 3; *See* 28 U.S.C. § 1915.

<sup>3</sup> Docket no. 5.

<sup>4</sup> Docket no. 11.

<sup>5</sup> Docket no. 18.

<sup>6</sup> *See* 28 U.S.C. § 1915(e)(2)(B)(i–ii).

contentions are clearly baseless.”<sup>7</sup> Therefore, before reaching any of Plaintiff’s Motions, the Court must satisfy itself that the Complaint is sufficient to proceed.

On review of the Complaint, the Court cannot satisfy itself that the Complaint is sufficient to proceed. Plaintiff has fantastical sounding claims that appear frivolous. Plaintiff appears to challenge without clear factual support an unlawful search and seizure, vindictive prosecution, denial of a fair trial, denial of equal protection, abuse of process, violations of the fifth and fourteenth amendments, conspiracy, discrimination, retaliation, fraud, misuse of power, denial of medical care, denial of lower bunk privileges, resulting in Plaintiff falling out of bed and suffering an injury, failure to be pardoned, and other violations.<sup>8</sup> The facts as alleged are not clear—are certainly not concise—and do not link individual Defendants with conduct sufficient to sustain a claim. It is unclear “exactly *who* is alleged to have done *what* to *whom*.”<sup>9</sup>

Additionally, the Complaint does not comply with the Federal Rules of Civil Procedure Rule 8(a)(2) which requires that a pleading for relief must contain “a short and plain statement of the claim showing that the pleader is entitled to relief...”<sup>10</sup> With attachments, the Complaint is over 300 pages long. Large chunks of the complaint appear to cite legal elements to causes of action, without including any factual support to those causes of action.

The Court, however, will allow Plaintiff to re-plead his complaint and to conform it to the obligations outlined above. Plaintiff is instructed that his Complaint must clearly state each individual defendant’s conduct that was tortious or that violated Plaintiff’s civil rights. Further, Plaintiff is directed to “make clear exactly *who* is alleged to have done *what* to *whom*.” Plaintiff

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<sup>7</sup> *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

<sup>8</sup> Docket no. 4.

<sup>9</sup> *Stone v. Albert*, No. 08-222, slip op. at 4 (10th Cir. July 20, 2009) (unpublished) (emphasis in original) (quoting *Robbins v. Oklahoma*, 519 F.3d 1242, 1250 (10th Cir. 2008)).

<sup>10</sup> Fed. R. Civ. P. 8(a)(2).

is strongly encouraged to take advantage of legal assistance provided to him.<sup>11</sup> If Plaintiff fails to timely cure the above deficiencies according to the instructions here, the magistrate judge will recommend that this action be dismissed without further notice.

### **CONCLUSION AND RECOMMENDATION**

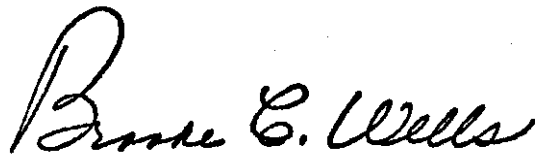
IT IS HEREBY RECOMMENDED that

- 1) Plaintiff's Complaint is dismissed without prejudice but shall be given 30 days after adoption of this Report and Recommendation to cure the deficiencies noted above.
- 2) The Clerk's Office shall mail Plaintiff a copy of the Pro Se Litigant Guide;
- 3) Plaintiff's pending motions are deemed MOOT.<sup>12</sup>

### **NOTICE**

Copies of this Report and Recommendation are being sent to all parties who are hereby notified of their right to object.<sup>13</sup> Within fourteen (14) days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of Court. Any objection must be filed within this deadline. Failure to object may constitute a waiver of objections upon subsequent review.

DATED this 29 August 2016.

A handwritten signature in black ink, reading "Brooke C. Wells". The signature is written in a cursive, flowing style. The first letter of "Brooke" is a large, stylized capital "B". The signature is positioned above a horizontal line.

Brooke C. Wells  
United States Magistrate Judge

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<sup>11</sup> *Lewis v. Casey*, 518 U.S. 343, 356 (1996) (requiring prisoners be given adequate law libraries or adequate assistance from persons trained in the law . . . to ensure that inmates . . . have a reasonably adequate opportunity to file nonfrivolous legal claims challenging their convictions or conditions of confinement") (citation omitted).

<sup>12</sup> Docket nos. 5, 11.

<sup>13</sup> *See* 28 U.S.C. §636(b)(1).